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EXAMINER

SCOTT JR, L

ART UNIT	PAPER NUMBER
2874	4

DATE MAILED: 03/04/99

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined. ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.  
A shortened statutory period for response to this action is set to expire THREE (3) month(s), --- days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice re Patent Drawing, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of informal Patent Application, Form PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐ \_\_\_\_\_

Part II SUMMARY OF ACTION

- ☒ Claim(s) 1-5 are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ has been canceled.
- ☐ Claim(s) \_\_\_\_\_ is allowed.
- ☒ Claim(s) 1-5 are rejected.
- ☐ Claim(s) \_\_\_\_\_ is objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawing(s) under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawing(s) are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948):
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction(s), filed on \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation).
- ☐ Acknowledgment is made of the claim for priority under 35 USC 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action: A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 1 is rejected under 35 U.S.C. 102 (b) as being *clearly anticipated* by Eastman et al('111).

Claim 2 is rejected under 35 U.S.C. 102 (b) as being *clearly anticipated* by Krichever et al('948).

Claim 3 is rejected under 35 U.S.C. 102 (e) as being *clearly anticipated* by Krichever et al('512).

Claim 3 is rejected under 35 U.S.C. 102 (b) as being *clearly anticipated* by Krichever et al('120).

The following is a quotation of 35 U.S.C. §103 which forms the basis for all obviousness rejections set forth in this Office action:

**"A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.**

**Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."**

Claims 1-5 are rejected under 35 U.S.C. 103 as being unpatentable over Eastman et al('111) and Krichever et al('948) and Krichever et al('512) or Krichever et al('120).

Given the structure of the references and the use of one diode in the module, using a plurality of diode modules would be obvious. Further it is not clear that a rotating shaft and a stationary shaft and an oscillating shaft constitute patentable distinctions, indeed an oscillating and a rotating shaft, lacking definitive clarification are the same.

Serial No. 936,304

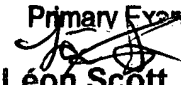
Art Unit 2874

-4-

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Léon Scott Jr. at telephone number (703)308-4884.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

March 1, 1999

Leon Scott, Jr.  
Primary Examiner  
  
Léon Scott, Jr.  
Primary Examiner  
Art Unit 2874